

Senate File 2306 - Introduced

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BY CHELGREN

A BILL FOR

- 1 An Act providing for the manufacture and sale of cheese
- 2 manufactured using raw milk, and making penalties
- 3 applicable.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 159.6, subsection 7, Code 2014, is
2 amended to read as follows:

3 7. Regulation and inspection of foods, drugs, and other
4 articles, as provided in Title V, subtitle 4, but chapter 205
5 of that subtitle shall be enforced as provided in that chapter.
6 Except as expressly authorized in subtitle 4, the department
7 shall not regulate the production, processing, labeling, or
8 marketing of a cheese produced using raw milk as an ingredient.

9 Sec. 2. Section 191.2, subsection 5, unnumbered paragraph
10 1, Code 2014, is amended to read as follows:

11 ~~All~~ Except as provided in subsection 5A, bottles,
12 containers, and packages enclosing milk or milk products shall
13 be conspicuously labeled or marked with:

14 Sec. 3. Section 191.2, Code 2014, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 5A. A person who operates a dairy farm as
17 provided in chapter 192 and who sells cheese produced using raw
18 milk as an ingredient in accordance with section 192.144 shall
19 label the package containing the cheese as required by the
20 department. The department shall require a label that notifies
21 consumers that the cheese is manufactured using raw milk.
22 However, the label shall neither promote nor discourage the
23 consumption of the cheese, and the label shall conform with any
24 applicable federal requirements, including 7 C.F.R. §58.439.

25 Sec. 4. NEW SECTION. 191.9A **Exception for on-farm sale of**
26 **cheese produced using raw milk.**

27 A person who operates a dairy farm as provided in chapter
28 192 and who sells cheese produced using raw milk as an
29 ingredient in accordance with section 192.144 shall label the
30 package containing the cheese as required by the department in
31 conformance with federal law, including 7 C.F.R. §58.439.

32 Sec. 5. Section 192.103, Code 2014, is amended to read as
33 follows:

34 192.103 **Sale of grade "A" milk to final consumer —**
35 **impoundment of adulterated or misbranded milk.**

1 1. Only grade "A" pasteurized milk and milk products
2 shall be sold to the final consumer, or to restaurants, soda
3 fountains, grocery stores, or similar establishments~~+~~, except
4 ~~in~~ as follows:

5 a. In an emergency, the sale of pasteurized milk and milk
6 products which have not been graded, or the grade of which is
7 unknown, may be authorized by the secretary, in which case,
8 such products shall be labeled "ungraded".

9 b. A person who operates a dairy farm may sell cheese
10 produced using raw milk as an ingredient to an individual in
11 compliance with section 192.144.

12 2. No person shall within the state produce, provide, sell,
13 offer, or expose for sale, or have in possession with intent
14 to sell, any milk or milk product which is adulterated or
15 misbranded; except, in an emergency, the sale of pasteurized
16 milk and milk products which have not been graded, or the grade
17 of which is unknown, may be authorized by the secretary, in
18 which case such products shall be labeled "ungraded".

19 3. Any adulterated or misbranded milk or milk product
20 may be impounded by the secretary or authorized municipal
21 corporation and disposed of in accordance with applicable laws
22 or regulations.

23 Sec. 6. NEW SECTION. 192.144 **Exception for on-farm sale of**
24 **cheese produced using raw milk.**

25 1. A person may manufacture cheese using raw milk that
26 has not been pasteurized in accordance with subsection 2,
27 notwithstanding any of the following:

28 a. Any other provision of this chapter, including rules
29 adopted by the department pursuant to section 192.102 or other
30 provisions of this chapter.

31 b. Any applicable federal requirement for producing,
32 holding, distributing, or selling milk or a milk product that
33 has not been pasteurized, including as provided in 21 C.F.R.
34 §1240.61.

35 2. A person may produce, store, distribute, and sell raw

1 milk for the manufacture of cheese, and the person may store,
2 distribute, or sell the cheese. The person may distribute or
3 sell the cheese on a retail or wholesale basis. However, the
4 person must do all of the following:

5 a. Operate a dairy farm regulated under this chapter.

6 *b.* Manufacture the cheese from raw milk originating from the
7 dairy farm operated by the person or a neighboring dairy farm
8 located within twenty-five miles from the person's dairy farm.

9 c. Manufacture a variety of cheese identified by standards
10 adopted by the United States food and drug administration
11 pursuant to 21 C.F.R. pt. 133.

12 *d.* Comply with requirements for curing the cheese variety as
13 specified in 21 C.F.R. pt. 133.

14 Sec. 7. NEW SECTION. 194.22 On-farm sale of cheese produced
15 using raw milk.

16 The department shall establish standards for the grading of
17 raw milk used in the manufacture of cheese pursuant to section
18 192.144.

EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 BILL'S PROVISIONS. This bill relates to the processing
23 of milk and the manufacture of milk products on dairy farms.
24 The bill provides that the department of agriculture and land
25 stewardship (DALs) cannot regulate the production, processing,
26 labeling, or marketing of cheese produced using raw milk as an
27 ingredient, except as provided in the bill. The bill provides
28 that a person may produce, store, distribute, and sell raw
29 milk for the manufacture of cheese. It also provides that the
30 person may store, distribute, or sell the cheese on a retail
31 or wholesale basis. However, certain conditions apply. The
32 person must operate a dairy farm, the person must manufacture
33 the cheese from raw milk originating from the person's own
34 dairy farm or a neighboring dairy farm, and the type of cheese
35 manufactured must be regulated by the United States food and

1 drug administration (FDA). The cheese must also be labeled as
2 required by DALs. The label cannot promote or discourage a
3 purchase. DALs must establish standards for the grading of raw
4 milk used in the manufacture of cheese.

5 BACKGROUND — STATE REGULATION. DALs regulates dairy farms,
6 including the production and grading of milk (Code section
7 159.6). Generally, statutory provisions and departmental rules
8 regulating milk are based on uniform regulations referred to
9 as the "Grade 'A' Pasteurized Milk Ordinance" (Code section
10 192.102). Under state law, food offered or exposed for sale
11 must be labeled (Code section 191.1). This includes the
12 labeling of milk or milk products (Code section 191.2). All
13 milk must be sold on the basis of grade (Code section 194.10)
14 and only grade "A" pasteurized milk and milk products can be
15 sold to the final consumer (Code section 192.103), although
16 grade "B" milk may be sold for manufacturing purposes (21 IAC
17 68.2). All dairy farms selling grade "A" or grade "B" milk
18 must be issued a permit (21 IAC 68.2).

19 BACKGROUND — FEDERAL REGULATION. FDA requires mandatory
20 pasteurization for all milk and milk products in final package
21 form intended for human consumption (21 C.F.R. §1240.61). One
22 exception applies to a list of enumerated cheeses. A cheese
23 included on the list may be manufactured using raw milk using
24 aging as an alternative process. The cheese has to be aged for
25 at least 60 days at a temperature of not less than 35 degrees
26 Fahrenheit (21 C.F.R. pt. 133). The United States department
27 of agriculture has adopted a similar provision relating to
28 labeling (7 C.F.R. §58.439).

29 PENALTIES. A person who violates the bill's provisions is
30 guilty of a simple misdemeanor (Code section 189.21). A simple
31 misdemeanor is punishable by confinement for no more than 30
32 days or a fine of at least \$65 but not more than \$625 or by
33 both.